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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

Writ Petition No.1519 of 2006

PETITIONER : Navin Kumar Swarnkar S/o Shri Banshi Lal Swarnkar, aged about 20 years, occupation student, B.E.IInd Year, Electronics & Telecommunication, Chhatrapati Shivaji Institute of Technology, Durg (C.G), resident of Kharsia Road Dabhra, Tahsil Dabhra, District Janjgir Champa (C.G.).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through it's Secretary Department of Higher Technical Education D.K.S. Building Raipur (C.G.)
2. The Principal, Chhatrapati Shivaji Institute of Technology, Shivaji Nagar, Kolhapuri Durg, District Durg (C.G.)
3. The Chairman, Chhatrapati Shivaji Institute of Technology, Shivaji Nagar, Kolhapuri Durg, District Durg (C.G.).
4. The Director, Department of Higher Technical Education, Chhattisgarh, Bairan Bazar, Raipur (C.G.)
5. Pt. Ravishanker University, Through its Registrar, Pt. Ravishanker University, Raipur (C.G.).

Present: Shri Shailendra Soni, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned counsel for the State.
Shri V.R. Tiwari, learned counsel for respondents 2 and 3.

ORAL ORDER
(Passed on 23rd June, 2006)

The petitioner is presently a second year student of the Course leading to B.E. Degree in Electronics & Telecommunications conducted

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by the 2nd respondent, Chhatrapati Shivaji Institute of Technology, Durg (C.G). The petitioner is seeking his transfer to some other institute to prosecute further studies in the above degree course. Therefore, the petitioner applied to the 2nd respondent, the Principal, Chhatrapati Shivaji Institute of Technology to grant him transfer and all other certificates in order to facilitate him to join some other institute. The petitioner complaining that the 2nd respondent refused to grant transfer certificate and other certificates, has filed this writ petition praying for the following reliefs:

> "In view of the fact and grounds stated above the petitioners seek issue of the following relief(s):-
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> 1. That this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus commanding the respondents authorities to produced the entire record relating to petitioner for issuance of transfer certificate, character certificate, no objection certificate and all other necessary documents;
> 2. That this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the respondents to issue forthwith all necessary documents related to the petitioner;
> 3. That this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the respondents no. 2 and 3 to pay the compensation of Rs. 1,00,000/- to the petitioner;
> 4. That any other alternative writ or writs, order or orders, direction or directions, though expedient and just may also please be issued."

2. This Court having entertained the writ petition on 04-04-2006, issued notice re-rule nisi. In response to the notice, respondents 2 and 3 have filed their return dated 22-06-2006. In Para 2 of the return, the respondents 2 and 3 have stated that they have no objection to give the

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Transfer Certificate, Character Certificate and other Certificates relating to the educational qualifications of the petitioner. With regard to issuance of no objection certificate, in para 3, it is stated thus:

> "As far as the No Objection Certificate is concerned, the answering respondents can only give the No Objection Certificate to the petitioner only after production of No Objection Certificate by the petitioner from the Director of Technical Education, and Pandit Ravi Shankar Shukla University, Raipur, because the petitioner has been admitted in the B.E. only after counseling from the merit list of PET and on the event of giving No Objection Certificate to the petitioner the seat occupied by the petitioner will be lying vacant for rest part of the degree course, hence it is submitted that as far as the Transfer Certificate, Character Certificate and other Certificates relate to education qualification of the petitioner, the answering respondents are ready to give the same at any moment when the petitioner appeared before the College, which is repeatedly being asked to the petitioner by the College authorities. Hence, the instant writ petition is misconceived and the facts stated in the instant writ petition are incorrect, which deserves to be dismissed with costs."

3. The insistence of respondents 2 and 3 to issue No Objection Certificate on production of No Objection Certificate by the Director of Technical Education and Pandit RaviShanker Shukla University, Raipur, in the premise of the reasons stated by respondents 2 and 3 in para 3, could not be considered to be arbitrary or unreasonable. If the petitioner leaves the 2nd respondent-institution, the seat presently held by him will go waste and the 2nd respondent-institution would suffer financially for the rest of the degree course. It is trite that the petitioner cannot join another institution without seeking permission of the Director of the Technical Education and Pandit RaviShanker Shukla University, Raipur.

Looking from that angle also, the petitioner cannot have any objection to seek No Objection Certificate from the Director of the Technical Education and Pandit RaviShanker Shukla University, Raipur and produce the same to the 2nd respondent in order to facilitate him to issue the required certificates. In that view of the matter, the writ petition is disposed of in terms of the undertaking given by the respondents 2 and 3 in para 2 of the return and subject to the petitioner producing No Objection Certificate issued by the Director of Technical Education and Pandit RaviShanker Shukla University, Raipur. No costs.

Sd/-
Chief Justice